



H.R. 2786 - Native American Housing Assistance and Self-Determination Reauthorization Act of 2007

EXECUTIVE SUMMARY

H.R. 2786 reauthorizes a program of block grants for Native American tribes to establish and maintain affordable housing. The legislation maintains a policy of tribal self-determination wherein tribes receive and administer the grant funds directly. The bill also reauthorizes existing housing assistance programs for Native Hawaiians. Some Republicans have expressed concerns that recent Supreme Court decisions have indicated that federal benefits for Native Hawaiians may be ruled as racial set-asides and thereby unconstitutional. Some Members have also expressed concerns about the Cherokee Indians receiving funds under this legislation, in light of the Cherokee Nation's March 3, 2007 vote to revoke the tribal citizenship of descendants of black slaves. The Congressional Budget Office (CBO) estimates that implementing H.R. 2786 would cost \$2.2 billion over the next five years, assuming the appropriation of the necessary funds.

FLOOR SITUATION

H.R. 2786 will be considered under a modified open rule. The Rule:

- Provides one hour of general debate, equally divided and controlled by the Chairman and Ranking Minority Members of the Committee on Financial Services
- Waives all points of order against consideration of the bill except those arising under clause of 9 (earmarks) and 10 (PAYGO) of Rule XXI
- Makes in order only those amendments that are pre-printed in the *Congressional Record* or are pro forma amendments for the purpose of debate (please see the Amendments section below)
- Provides one motion to recommit with or without instructions

This legislation was introduced by Representative Dale Kildee (D-MI) on June 20, 2007. The bill was reported by the Committee on Financial Services, by voice vote, on June 26, 2007.

H.R. 2786 is expected to be considered on the floor on September 6, 2007.

**Note: This program was last reauthorized in the 106th Congress in H.R. 5640, the American Homeownership and Economic Opportunity Act of 2000, which passed in the House of Representatives by a voice vote on December 5, 2000, and was signed into law by the President on December 27, 2000.*

SUMMARY

H.R. 2786 authorizes such sums as may be necessary in block grants for Indian Tribes to carry out “affordable housing activities” for fiscal years 2008 – 2012. Under this program, Indian tribes will receive and administer the funds directly (as opposed to the funds being meted out and administered by an executive agency). The tribes will receive the same discounts on purchases that government agencies receive.

Tribal Self-Determination

The tribes are authorized to determine for themselves what eligible housing programs (eligible housing programs are listed in the Native American Housing Assistance and Self-Determination Act of 1996) they will undertake with the block grant funds, without seeking approval from the Department of Housing and Urban Development (HUD). The tribes will be required to submit a five year plan to the Secretary of HUD with an overview of the expected benefits to the low-income communities that are served by this program, as well as an account of how the tribe plans on spending the money it receives through these grants.

Additionally, Tribes are authorized to spend up to \$1 million of the grant funds they receive under this program in any fiscal year for housing programs that may be determined wholly by the tribe involving construction, acquisition, or rehabilitation of housing that will benefit the tribal community.

Eligible Affordable Housing Funding Recipients

Tribes may provide affordable housing to families on Indian Reservations that are determined to be (1) “essential to the well-being of Indian families,” and (2) families whose “need for housing for the family cannot reasonably be met without such assistance.”

Program Review and Report to Congress

In fiscal year 2011, the Secretary of HUD is required to conduct a full review of the outcome of the tribal housing assistance programs to determine how effective the programs have been at meeting their goals, and to assess the need for continued future funding of this program. The Secretary shall submit a report on his finding to Congress by December 31, 2011.

Training On How to Utilize Federal Loan Guarantee Programs

The Secretary of HUD is required to carry out training and educational seminars with tribes and tribal housing entities on how to utilize federal housing loan guarantee programs.

Native Hawaiians

The bill reauthorizes existing housing assistance programs for Native Hawaiians.

**Note: Some Republicans have expressed concerns that recent Supreme Court decisions have indicated that federal benefits for Native Hawaiians may be unconstitutional and ruled as a racial set-aside since Native Hawaiians are not recognized as a governing entity or a tribe.*

BACKGROUND

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), P.L. 104-330, reorganized the system of federal housing assistance to Native Americans by eliminating several separate programs of assistance and replacing them with a single block grant program. The program was designed to provide federal assistance for Indian tribes to develop and provide affordable housing within their tribal communities, while recognizing the right of Indian self-determination and tribal self-governance (CRS: [RS21241](#)).

Cherokee Nation Descendants of Black Slaves

Financial Services Republican Committee staff indicate that The Treaty of 1866 abolished slavery in Indian Territory and adopted the freed slaves in Indian territories into four of the five Indian Nations. On March 3, 2007, Cherokee Nation Members voted to revoke the tribal citizenship descendants of black slaves, known as the Cherokee Freemen, who had formerly been considered Cherokee citizens.

**Note: Some Members have expressed concerns over allowing the Cherokee Nation to receive funding in this bill without requiring that the Cherokee Nation to certify to Congress that the citizenship of the Cherokee Freemen has been fully restored and that the Cherokee Nation is in full compliance with the Treaty of 1866.*

AMENDMENTS

(Pre-printed in the *Congressional Record*)

1) Rep. Steve King (R-IA): The amendment would strike provision in the bill (Section 8) which reauthorizes existing housing assistance programs for Native Hawaiians.

2) Rep. Steve King (R-IA): The amendment would prohibit funds authorized in this bill or any amendment to this bill from being used to employ illegal aliens.

3) Rep. Stevan Pearce (R-NM): The amendment would create a federal economic and infrastructure development loan guarantee program for Native Americans.

4) Rep. Tom Price (R-GA): The amendment would require any person receiving assistance under this legislation to present valid government issued identification.

5) Rep. Tom Price (R-GA): The amendment would require any increases in federal spending in this legislation to be offset by equal decreases in federal spending.

6) Rep. Melvin Watt (D-NC): The amendment would prohibit any funds in this bill from being expended for the benefit of the Cherokee Nation of Oklahoma until the Cherokee Nation of Oklahoma is in full compliance with the Treaty of 1866 and fully recognizes all Cherokee Freedmen and their descendants as citizens of the Cherokee Nation.

7) Rep. Lynn Westmoreland (R-GA): The amendment would strike provision in the bill (Section 8) which reauthorizes existing housing assistance programs for Native Hawaiians.

COST

The Congressional Budget Office (CBO) estimates that implementing H.R. 2786 would cost \$2.2 billion over the next five years, assuming the appropriation of the necessary funds ([CBO Cost Estimate for H.R. 2786](#)).

STAFF CONTACT

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